

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION**

XTO Energy, Inc.,)	
)	
Plaintiff,)	ORDER EXTENDING THE
)	TEMPORARY RESTRAINING ORDER
vs.)	
)	
Kenneth Schmidt,)	Case No. 4:09-cv-066
)	
Defendant.)	

On October 20, 2009, the Court granted the Plaintiff's request for a temporary restraining order, thereby restraining the defendant, Kenneth Schmidt, from interfering with the Plaintiff's attempts to access the Schmidt property and use the property for geophysical exploration. See Docket No. 5. Under Rule 65 of the Federal Rules of Civil Procedure, a temporary restraining order may not exceed ten days. Fed. R. Civ. P. 65(b)(2). The temporary restraining order expires on October 30, 2009.

Rule 65(b) requires that when a court issues a temporary restraining order without notice, a hearing must be set at the earliest possible time to show cause why the court should not issue a preliminary injunction on the matter. The Plaintiff's attorney, Lawrence Bender, informed the Court that the earliest possible date on which he is available to attend a show cause hearing is November 2, 2009. A show cause hearing has been scheduled for November 2, 2009 at 1:30 p.m. in Bismarck, North Dakota.

Rule 65 of the Federal Rules of Civil Procedure mandates that a temporary restraining order "expires at the time after entry – not to exceed 10 days – that the court sets, unless before that time the court, for good cause, extends it for a like period or the adverse party consents to a longer extension." Fed. R. Civ. P. 65(b)(2). The Court finds, in its discretion, that there is good cause to extend the temporary restraining order beyond the October 30, 2009 deadline. A show cause hearing was

scheduled at the earliest possible convenience of the Court and the Plaintiff's attorney. As a result, the Court **ORDERS** that the temporary restraining order against Kenneth Schmidt shall be extended for an additional 10 days or until November 9, 2009.

IT IS SO ORDERED.

Dated this 22nd day of October, 2009.

/s/ Daniel L. Hovland

Daniel L. Hovland, Chief Judge
United States District Court